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Counsel to the Debtors and  
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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

- - - - - x  
In re: : Chapter 11  
:   
CIRCUIT CITY STORES, INC., : Case No. 08-35653 (KRH)  
et al., :  
:   
Debtors. : Jointly Administered  
- - - - - x

**SECOND SUPPLEMENTAL ORDER ON DEBTORS' FIFTH OMNIBUS OBJECTION TO  
CERTAIN MISCLASSIFIED NON-GOODS 503(b)(9) CLAIMS**

THIS MATTER having come before the Court on the Debtors'  
Fifth Omnibus Objection to Certain Misclassified Non-Goods  
503(b)(9) Claims (the "Objection"), and the Court having entered  
the Order on Debtors' Fifth Omnibus Objection to Certain  
Misclassified Non-Goods 503(b)(9) Claims on July 8, 2009 (Docket  
No. 4008) (the "Initial Order"); and the Court having entered a  
Memorandum Opinion on September 22, 2009 (Docket No. 5040)

wherein the Court concluded that the definition of "goods" set forth in the Uniform Commercial Code should be employed in fashioning a federal definition for that term in 11 U.S.C. § 503(b)(9) and the "predominate purpose test" should be used to determine whether a claimant asserting a claim under Bankruptcy Code section 503(b)(9) sold "goods" to the debtor; and upon the record herein, and after due deliberation thereon; and good and sufficient cause appearing therefore, the Court hereby

FINDS, DETERMINES, AND CONCLUDES THAT:

- A. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334.
- B. The Objection is a core proceeding under 28 U.S.C. § 157(b).
- C. Venue of these cases in this district and before this Court is proper under 28 U.S.C. §§ 1408 and 1409.
- D. Due and proper notice and service of the Objection has been given in compliance with Fed. R. Bankr. P. 3007 and 7004 and LBR 3007-1 and was good and sufficient and that no other further notice or service of the Objection need be given.
- E. Schimenti Construction Company LLC ("Schimenti") filed a response to the Objection.
- F. Schimenti admits that the predominant purpose of the contracts between the Debtors and Schimenti was the rendition of services (i.e., labor).

G. The relief requested in the Objection is in the best interest of the Debtors, their estates and creditors and other parties-in-interest.

Now therefore, it is hereby, ORDERED ADJUDGED AND DECREED THAT:

1. The Objection is SUSTAINED to the extent set forth herein.

2. Notwithstanding the Initial Order, the claim identified on Exhibit A (as attached hereto and incorporated herein) is reclassified as set forth on Exhibit A.

3. The Debtors' rights to object to any claims, including the claim on Exhibit A, on any grounds that the governing law permits are not waived and are expressly reserved.

4. The Debtors shall serve a copy of this Order on the claimant included on Exhibit A to this Order on or before seven (7) days from the entry of this Order.

5. This Court shall retain jurisdiction with respect to all matters arising from or related to this Order.

Dated: Richmond, Virginia  
\_\_\_\_\_, 2010

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Honorable Kevin R. Huennekens  
United States Bankruptcy Judge

WE ASK FOR THIS:

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/s/ Douglas M. Foley  
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/s/ Christopher L. Perkins  
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**CERTIFICATION OF ENDORSEMENT UNDER LOCAL RULE 9022-1(C)**

Pursuant to Local Bankruptcy Rule 9022-1(C), I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

/s/ Douglas M. Foley  
Douglas M. Foley

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**EXHIBIT A**

CLAIM TO BE MODIFIED	CLAIM AS DOCKETED*						CLAIM AS MODIFIED					
Claim: 966 Date Filed: 12/19/2008 Docketed Total: \$47,682.22 Filing Creditor Name and Address: SCHIMENTI CONSTRUCTION CO LLC 650 DANBURY RD RIDGEFIELD, CT 06877	Claim Holder Name and Address SCHIMENTI CONSTRUCTION CO LLC 650 DANBURY RD RIDGEFIELD, CT 06877						Case Number: 08-35653	Docketed Total: <b>\$47,682.22</b>	Case Number: 08-35653	Modified Total: <b>\$47,682.22</b>		
	<u>503(b)(9)</u>	<u>Reclamation</u>	<u>Admin</u>	<u>Secured</u>	<u>Priority</u>	<u>Unsecured</u>	<u>503(b)(9)</u>	<u>Reclamation</u>	<u>Admin</u>	<u>Secured</u>	<u>Priority</u>	<u>Unsecured</u>
						\$47,682.22						\$47,682.22
							<b>Total Claims To Be Modified: 1</b> <b>Total Amount As Docketed:</b> \$47,682.22 <b>Total Amount As Modified:</b> \$47,682.22					

\* "UNL" denotes an unliquidated claim.